



# Fiscal Note

## Legislative Council Staff

Nonpartisan Services for Colorado’s Legislature

### SB 26-124: COLORADO SURVIVOR JUSTICE ACT

**Prime Sponsors:**  
Sen. Wallace

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**Fiscal note status:** This fiscal note reflects the introduced bill.

#### Summary Information

**Overview.** The bill requires the consideration of whether a person was a victim of an act of violence during criminal proceedings and establishes grounds for post-conviction relief based on this factor.

**Types of impacts.** The bill is projected to affect the following areas on an ongoing basis:

- Minimal State Revenue
- State Expenditures
- Local Government

**Appropriations.** For FY 2026-27, the bill requires a net change in appropriations totaling \$2.3 million to multiple state agencies; see State Appropriations section.

**Table 1**  
**State Fiscal Impacts**

Type of Impact	Budget Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29
State Revenue	\$0	\$0	\$0
State Expenditures	\$2,803,896	\$1,402,912	-\$573,504
Transferred Funds	\$0	\$0	\$0
Change in TABOR Refunds	\$0	\$0	\$0
Change in State FTE	20.5 FTE	20.5 FTE	0.0 FTE

Fund sources for these impacts are shown in the tables below.

**Table 1A  
 State Expenditures**

<b>Fund Source</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>
General Fund	\$2,317,578	\$916,594	-\$573,504
Cash Funds	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0
Centrally Appropriated	\$486,318	\$486,318	\$0
<b>Total Expenditures</b>	<b>\$2,803,896</b>	<b>\$1,402,912</b>	<b>-\$573,504</b>
<b>Total FTE</b>	<b>20.5 FTE</b>	<b>20.5 FTE</b>	<b>0.0 FTE</b>

## Summary of Legislation

The bill requires the consideration of whether a person was a victim of an act of violence during criminal proceedings and establishes grounds for post-conviction relief for victims of acts of violence, as discussed below.

### Acts of Violence

Throughout the bill, “act of violence” is defined as an act of:

- domestic abuse, domestic violence, and sexual violence as those terms are used for the purposes of civil protection orders; or
- human trafficking or child abuse, as those terms are used in the criminal code.

### During Criminal Proceedings

When a defendant raises the affirmative defense of use of physical force in self-defense, the bill allows the defendant to offer all relevant evidence of an act or acts of violence committed by the alleged victim or perpetrated against the defendant. The bill stipulates what constitutes relevant evidence, and how this evidence is considered. Evidence of an act of violence can be presented at sentencing as well. An alternative sentence to no more than half the maximum term authorized by law may be imposed, except for certain offenses and subject to other criteria and determinations. The mandatory sentence to the Colorado Department of Corrections (CDOC) for a crime of violence is not required for a person that meets these criteria. Additionally, the bill includes language in the purpose of the criminal code regarding offenders who are victims of acts of violence.

## **Post-Conviction Relief**

A person who is a victim of an act of violence may file a petition for post-conviction relief if they are serving a sentence of 15 or more years for an offense committed before July 1, 2026, and did not commit:

- a class 1 felony, except for first degree murder as the offense existed prior to September 15, 2021;
- unlawful sexual behavior;
- human trafficking of a minor for involuntary or sexual servitude;
- stalking; or
- felony child abuse that caused a child under 12 years old to suffer death or serious bodily injury.

The bill establishes processes for submission of petitions, including required duties for the court, information required in a petition, appointment of counsel for indigent persons, involvement of district attorney offices, and timelines. Petitions may be denied, with notice to the petitioner required, or may proceed to a hearing on the petition. If the petition succeeds, the petitioner may file a motion for reconsideration and reduction of the initial sentence. Finally, the Judicial Department is required to report on this post-conviction relief process during its annual SMART Act hearing starting July 1, 2027.

## **Assumptions**

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Below are assumptions on the impacts of the post-conviction relief process under and other modifications to criminal proceedings under the bill.

### **Post-Conviction Relief**

The CDOC reports that 5,043 individuals are currently serving a sentence that is not excluded from the petition eligibility criteria under the bill.

The fiscal note makes the following assumptions:

- 35 percent of these individuals, or about 1,765, will file a petition with the courts;
- this will occur over a period of two years, with about 883 individuals filing a petition per year, and that after these two years, the number of petitions filed will decrease to a minimal, ongoing amount;
- virtually all petitioners will be indigent and require the appointment of counsel from the Office of the State Public Defender (OSPD), and at least 8 hours of OSPD staff attorney time to assist with each petition initially;
- of the petitions filed, 35 percent, or about 309, will not proceed to a hearing, but will still require at least 2 hours of judicial officer and OSPD attorney staff time to resolve;

- the remaining 65 percent of petitions, or about 574, will proceed to a hearing based on the presumption of granting a hearing provided by the bill, and each petition that proceeds to a hearing requires at least 9 hours of judicial officer and OSPD attorney staff time;
- based on the standard of preponderance of the evidence, 51 percent, or about 293, of petitions that proceed to a hearing will result in filing a motion to reconsider sentencing; and
- that about 20 percent, or 59 per year, of the petitioners that file a motion to reconsider sentencing will have their sentence modified to a degree where they are eligible for release from the CDOC, based on the prevalence of prior victimization among persons involved in the criminal justice system; given the time needed to reach this point, about 30 individuals will be released in FY 2026-27, 59 in FY 2027-28, and 29 in FY 2028-29, after which the number of individuals released will decrease to a minimal amount.

Additionally, the bill will increase workload for district attorney offices, likely requiring additional staff on a level similar to the OSPD.

### **Impact of Other Modifications to Criminal Proceedings**

Other modifications to criminal proceedings will impact workload, expenditures, and revenue in the Judicial Department, independent agencies providing representation to indigent defenders, and the CDOC. However, these changes will apply in a narrow subset of criminal cases, which already involve a substantial amount of workload. Additionally, the court retains discretion regarding sentencing. Therefore, the fiscal note assumes that the overall impacts to these agencies from the other modifications to criminal proceedings will be minimal.

### **State Revenue**

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Starting in FY 2026-27, state revenue from probation supervision fees may increase if more individuals receive a sentence to probation rather than the CDOC. Revenue from probation supervision fees is subject to TABOR. As discussed in the Assumptions section, this will occur in a limited number of cases, and so any impact to state revenue is minimal.

### **State Expenditures**

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The bill increases net state expenditures by \$2.8 million in FY 2026-27, and \$1.4 million in FY 2027-28, and decreases them by \$570,000 in FY 2028-29. Expenditures will increase in the trial courts of the Judicial Department and the OSPD, and decrease in the CDOC, as shown in Table 2 and described in the sections below. Expenditures are from the General Fund.

**Table 2  
 State Expenditures  
 All Departments**

<b>Department</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>
Judicial Department	\$2,287,339	\$1,522,859	\$0
Office of the State Public Defender	\$1,109,838	\$1,046,838	\$0
Department of Corrections	-\$593,280	-\$1,166,784	-\$573,504
<b>Total Costs</b>	<b>\$2,803,896</b>	<b>\$1,402,912</b>	<b>-\$573,504</b>

### Judicial Department

Expenditures in the department will increase by about \$2.3 million in FY 2026-27, and by \$1.5 million in FY 2027-28 to hire additional judicial officers and support staff to process post-conviction relief petitions. After FY 2027-28, workload will decrease to a minimal amount. Costs are outlined below and shown in Table 2A.

#### Judicial Officer Impact and Support Staff

Based on the assumptions regarding petitions, a total of 2.8 FTE judicial officer is required. Judicial officers will receive and review petitions, and preside over petition hearings. Based on the department’s common policies, each judicial officer requires a 1:3 ratio of support staff. From the amount of judicial officer FTE needed, 8.4 FTE of support staff are needed.

#### District Court Operating and Capital Outlay Costs

Also based on the department’s common policies, judicial officers require an additional \$5,120 in operating and \$245,100 in capital outlay costs. These include a law library, robes and cleaning, travel, courthouse infrastructure and maintenance, and specialized technology and furniture costs. These amounts are included in the figures below and are prorated to the nearest 0.1 FTE of judicial officer.

#### Form Update

The Supreme Court Administrator’s Office will develop a new form for the post-conviction relief petition. This cost includes expenses for generating the form, providing translated versions, and making the form available to the public.

**Table 2A  
 State Expenditures  
 Judicial Department**

<b>Cost Component</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>
Personal Services	\$1,218,452	\$1,218,452	\$0
Operating Expenses	\$28,672	\$28,672	\$0
Capital Outlay Costs	\$763,280	\$0	\$0
Form Update	\$1,200	\$0	\$0
Centrally Appropriated Costs	\$275,734	\$275,734	\$0
<b>Total Costs</b>	<b>\$2,287,339</b>	<b>\$1,522,859</b>	<b>\$0</b>
<b>Total FTE</b>	<b>11.2 FTE</b>	<b>11.2 FTE</b>	<b>0.0 FTE</b>

**Office of the State Public Defender**

Expenditures in the OSPD will increase by about \$1.1 million in FY 2026-27 and by \$1.0 million in FY 2027-28 to provide counsel to indigent petitioners throughout the post-conviction relief process, including assistance with initial petition submission and counsel during petition hearings. After FY 2027-28, workload will decrease to a minimal amount. Costs are outlined below and shown in Table 2B

**Staff Attorneys and Support Staff**

Based on the assumptions regarding petitions, 6.2 FTE of staff attorney is required to provide counsel to indigent petitioners. Each staff attorney requires additional investigator and paralegal support staff, at a ratio of 1:3 and 1:6, respectively. Applying these ratios provides 2.1 FTE investigator staff, and 1.0 FTE of paralegal staff.

**Additional OSPD Staff Expenses**

Funding is required for annual training, at a cost of \$1,000 per full FTE in the OSPD. Additionally, each full FTE of staff attorney requires funding for annual attorney registration fees, at a cost of \$190.

**Table 2B**  
**State Expenditures**  
**Office of the State Public Defender**

<b>Cost Component</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>
Personal Services	\$814,210	\$814,210	\$0
Operating Expenses	\$11,904	\$11,904	\$0
Capital Outlay Costs	\$63,000	\$0	\$0
OSPD Staff Training	\$9,000	\$9,000	\$0
OSPD Attorney Fees	\$1,140	\$1,140	\$0
Centrally Appropriated Costs	\$210,584	\$210,584	\$0
<b>Total Costs</b>	<b>\$1,109,838</b>	<b>\$1,046,838</b>	<b>\$0</b>
<b>Total FTE</b>	<b>9.3 FTE</b>	<b>9.3 FTE</b>	<b>0.0 FTE</b>

### Department of Corrections

The CDOC will have a net decrease in expenditures based on the number of individuals eventually released through post-conviction relief discussed in the Assumptions section. After FY 2028-29, the number of individuals released will decrease to a minimal amount. Impacts are outlined below and shown in Table 2C.

#### Jail Backlog Payments

The current annual rate for jail backlog payments is \$28,163 per person. As individuals are released due to post-conviction relief, offenders currently in the jail backlog will move into placements in the CDOC's facilities. With 30 individuals released in FY 2026-27, 59 individuals released in FY 2027-28, and another 29 released in FY 2028-29, this totals a reduction of about \$850,000 in jail backlog payments for FY 2026-27, \$1.7 million for FY 2027-28, and \$820,000 in FY 2028-29.

#### Parole Costs

Similarly, released individuals will remain supervised on parole. The current annual rate for parole supervision is \$8,388 per person, totaling an increase of about \$250,000 in parole costs for FY 2026-27, \$500,000 for FY 2027-28, and \$240,000 for FY 2028-29.

**Table 2C  
State Expenditures  
Department of Corrections**

<b>Cost Component</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>
Jail Backlog Payments	-\$844,920	-\$1,661,676	-\$816,756
Parole Costs	\$251,640	\$494,892	\$243,252
<b>Total Costs</b>	<b>-\$593,280</b>	<b>-\$1,166,784</b>	<b>-\$573,504</b>

### **Centrally Appropriated Costs**

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which may include employee insurance, supplemental employee retirement payments, indirect cost assessments, and other costs, are shown in the tables above.

### **Local Government**

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Workload and costs will increase for district attorney offices, likely requiring additional staff proportional to the OSPD. The exact impact will depend on the jurisdiction. District attorney offices are funded proportionally by counties in a judicial district.

### **Effective Date**

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The bill takes effect July 1, 2026.

### **State Appropriations**

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For FY 2026-27, the bill requires General Fund appropriations of

- \$2,011,604 to the Judicial Department, and 11.2 FTE; and
- \$899,254 to the Office of the State Public Defender, and 9.3 FTE.

Additionally, the bill requires a General Fund reduction of \$593,280 to the Department of Corrections.

## **Departmental Difference**

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The CDOC estimates that the bill will have an indeterminate impact on the prison population, and requires no change in appropriations.

The fiscal note estimates that 20 percent of petitioners proceeding to a motion to reconsider sentencing will be released based on the prevalence of prior victimization among persons involved in the criminal justice system, which equates to a reduction in jail backlog costs, and an increase in parole costs.

## **State and Local Government Contacts**

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Corrections

Public Defender

District Attorneys

Public Safety

Judicial